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10/730,804	12/09/2003	Bernard Leon Bensussan	1331.038USU	2702

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EXAMINER

GARCIA, ERNESTO

ART UNIT PAPER NUMBER

3679

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/730,804

Applicant(s)

BENSUSSAN, BERNARD LEON

Examiner

Ernesto Garcia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 10-14 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-14 and 22 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/30/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The indicated allowability of claims 10 and 22 are withdrawn in view of the newly discovered reference(s) to Moretti et al., 5,374,088. Rejections based on the newly cited reference(s) follow.

### ***Drawings***

The drawings were received on 09/23/2005. These drawings are not acceptable.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "28" has been used to designate both a first end with one configuration (Fig. 1) and a first end with another configuration (Fig. 2).

The drawings are objected to because the lower retaining rim 56 in Figure 5, having dimension 60, is drawn incorrectly. Notice the two lines cross one another on the upper right side.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claims 10-14 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 10, the metes and bound of the claim is unclear. In particular, the use of the limitation "second" in "a second opening" in line 3, "a second locking member" in line 5, "a second tab" in line 5, and "a second button" in line 5 makes unclear whether a first opening, a first locking member, a first tab, and a first button is required. The claim cannot have a "second" feature without mentioning a "first" feature. Applicant has argued that removing the modifier "second" would place the claims contrary to the description in the specification. This argument is not correct. There is no basis in either section 112 or case law for rejecting as indefinite an otherwise understandable claim which contains language not identical to that used in the specification. The claims should identify the elements, e.g., the opening, in a numerical sequence according to their order of introduction into the claimed invention. Accordingly, one cannot have a "second opening" until a "first opening" has been set forth. The first introduced "opening" must be labeled the "first" opening. While this practice may cause a momentary delay in ascertaining which of the disclosed openings is actually being referred to, it would not make the claims involved incapable of being understood. Applicant's attention is directed to 37 CFR 1.75(d)(1) which provides that the claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support in the description. The words "conform" and "support" do not mandate that the terms used in the specification and claims be identical in all respects. Accordingly, contrary to applicant's remarks, the ambiguity is present now (not in the corrective action sought by

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the examiner) because the instant claim construction raises the question regarding whether or not a “first” opening, etc., has been inadvertently omitted.

Regarding claims 10 and 14, the limitation “said second locking member being configured such that pressure on said second button moves said second tab from the second part” in claim 10, lines 9-10, and in claim 14, lines 10-11, makes unclear what configuration is required so that pressure on the second button moves the second tab from the second part.

Regarding claim 13, where’s the third opening? The claim mentions a fourth opening without previously reciting a third opening.

Regarding claim 14, it is unclear where the first opening and the third opening are located.

Regarding claim 22, the limitation “said first end being configured for connection to the first part and said second end being configured for connection to the second part” in lines 3-5 makes unclear what is the configuration of the first end required to allow connection to the first part, and to allow the connection to the second part.

Regarding claims 11 and 12, the claims depend from claim 10 and therefore are indefinite.

***Claim Rejections - 35 USC § 102***

Claims 10-12 and 22 are rejected under 35 U.S.C. 102(b) as being anticipate by Moretti et al., 5,374,088 (see marked-up attachment).

Regarding claim 10, Moretti et al. disclose, in Figure 2 and 4, a connecting member comprising a housing **5** and a second locking member **2**. The housing **5** has a second opening **12**. The second locking member **2** has a second tab **13** and a second button **15**. The second locking member **2** is on the housing **5** such that the second locking member **2** biases the second tab **13** through the second opening **12**. The second locking member **2** has a major axis **A1** and a minor axis **A2**. The second tab **13** is along the minor axis **A1** and the second button **15** is along the major axis **A2**.

Regarding claim 11, the connecting member further comprises a first retaining rim **A3** on the housing **5**.

Regarding claim 12, the connecting member further comprises a second retaining rim **A4** on the housing **5**.

Regarding claim 22, Moretti et al. disclose, in Figures 1, 2, and 4, a connecting member comprising a housing **5** and a locking member **2**. The housing **5** has a first

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end, a second end, and an opening **12**. A pair of retaining rims **A1,A2** extend from the housing **5**. The locking member **2** has a tab **13** and a button **15**. The opening is defined in the housing between the retaining members **A1, A2**. The locking member **2** extends between the retaining rims **A1,A2**. The locking member **2** has a major axis **A1** and a minor axis **A2**. The tab **13** is along the minor axis **A1** and the button **15** is along the major axis **A2**.

Applicant should note that the first end and the second end are configured.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipate by Lisowski, 5,937,473.

Regarding claim 14, Lisowski discloses, in Figure 14, a connecting member comprising a housing **50** and a second locking member (best shown by reference character **62**). The housing **50** has a second opening (the opening allows **62** to pass through). The second locking member has a second tab **62** and a second button (next to feature **62**). The second locking member is on the housing **50** such that the second locking member biases the second tab **62** through the second opening.

The connecting member further comprises a first locking member (at **66**) having a first tab (at **78**) and a first button (next to **78**). The first locking member is in the



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housing such that the first locking member biases the first tab through a first opening **78** and the first button through a third opening (at **66**).

Applicant is reminded that the first tab is releasably able to connect to a first part when the locking member biases the first tab through the first opening, and the first button remains uncovered by the first part when the first part is releasably connected to the first tab.

Applicant is reminded that the second tab is releasably able to be connected to a second part. The second locking member is configured such that pressure on the second button moves the second tab from the second part.

***Allowable Subject Matter***

Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

regarding claim 13, the prior art of record does not disclose or suggest a connecting member comprising a second retaining rim including an inwardly depending tab.

### ***Response to Arguments***

Applicant's arguments filed on 9/23/05 have been fully considered but they are not persuasive.

Applicant has argued that Lisowski does not disclose the second locking member "on said housing", but rather the detent 62 is within rod 52. The fact that the locking member is within rod does not indicate that the locking member is not on the housing. The second locking member is still on the housing overall. Further, applicant has argued that the claim 14 requires "releasably connectable to the second part in said housing when said second tab is biased through said second opening". In response, applicant should keep in mind that the recitation does not indicate that the second tab is releasably connected to the second part in said housing. Further, the use of the conditional statement "when" does not mean it is. If Lisowski's second tab is capable of being releasably connected to the second part, then the claim is anticipated. The arguments presented do not dispute this capability or explain why the second tab will not work as claimed. Applicant has further argued that "the second part is in the housing"; yet, nowhere in claim 14 does it state that the second part is in the housing. Applicant should note that the second part is not part of the claimed invention.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-70837083. The examiner can normally be reached from 9:30-6:00. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

E.G.

E.G.

December 2, 2005

Attachment: one marked-up page of Moretti et al., 5,374,088



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SUPERVISORY PATENT EXAMINER  
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Moretti et al., 5,374,088

